

Attachment A

Declaration of ICE Enforcement and Removal Operations Assistant Director Matthew Albence

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JOSE JIMENEZ MORENO and MARIA)
JOSE LOPEZ,)
on behalf of themselves and all others)
similarly situated)
Plaintiffs,) Case No. 1:11-CV-05452
v.) Judge John Z. Lee
JANET NAPOLITANO, et al.,)
in their official capacities)
Defendants.)

DECLARATION OF MATTHEW ALBENCE

I, Matthew Albence, state as follows:

1. I am the Assistant Director for Enforcement for the U.S. Immigration and Customs Enforcement (ICE), Office of Enforcement and Removal Operations (ERO), an agency within the Department of Homeland Security (DHS). As the Assistant Director for Enforcement, I manage ICE ERO's enforcement initiatives and components through which ERO identifies and arrests removable aliens.
2. Following the enactment of the Homeland Security Act of 2002, ICE was created from elements of several legacy agencies, including the former Immigration and Naturalization Service. ICE is the principal investigative arm of DHS. ICE's primary mission is to promote homeland security and public safety through the criminal and civil enforcement

of federal laws governing border control, customs, trade, and immigration. ERO is one of the two principal operational components in ICE, the other being Homeland Security Investigations. ERO oversees programs and conducts operations to identify and apprehend removable aliens, to detain these individuals when necessary, and to remove from the United States aliens subject to a final order of removal. ERO prioritizes the apprehension, arrest, and removal of convicted criminals, those who pose a threat to national security, fugitives, recent border entrants, and aliens who thwart immigration controls. ERO manages all logistical aspects of the removal process, including domestic transportation, detention, alternatives to detention programs, bond management, and supervised release. In addition, ERO repatriates aliens ordered removed from the United States to more than 170 countries around the world. ERO consists of more than 7,500 employees, located at ICE headquarters and in 24 field offices in the United States and overseas

3. As the ERO Assistant Director for Enforcement, I oversee and supervise the ongoing execution of all ERO enforcement programs, including the Criminal Alien Program, the National Fugitive Operations Program, and the Targeting Operations Division. These programs involve the identification and apprehension of removable aliens who fit within the Department of Homeland Security's civil immigration enforcement priorities.
4. I submit this declaration in support of the Defendants' Motion to Stay Judgement pending Appeal, and if called as a witness, I would testify to the same.
5. The class definition in this case includes all current and future persons against whom ICE issued an immigration detainer out of the Chicago Area of Responsibility (AOR). The Chicago AOR includes Illinois, Indiana, Wisconsin, Kentucky, Missouri and Kansas. The

ERO Field Office for the Chicago AOR currently investigates and issues detainers to local, state, and federal law enforcement agencies in those six states. In addition to those six states, the Chicago ERO Field Office had, until March 2015, secondary responsibility for an additional 24 states, where it investigated and issued ICE detainers afterhours (i.e., nights, weekends, and holidays). Finally, though it is no longer in existence, the Chicago Deport Center, which was run out of the Chicago AOR between May 2005 and March 2011, investigated Federal Bureau of Prisons (BOP) booking records and issued detainers for individuals serving time in BOP facilities nationwide.

6. ERO's Pacific Enforcement Response Center (PERC), located in Southern California, took over responsibility for issuing detainers during afterhours (i.e., nights, weekends, and holidays) from the Chicago ERO Field Office in March 2015. This includes primary afterhours coverage in the Chicago AOR and the secondary afterhours coverage in the 24 states previously served by the Chicago ERO Field Office.
7. There are nine sub-offices in the Chicago AOR, located in: Broadview, Illinois, Springfield, Illinois, Rock Island Illinois, Indianapolis, Indiana, Kansas City, Missouri, St. Louis, Missouri, Louisville, Kentucky, Milwaukee, Wisconsin, and Wichita, Kansas. ERO officers work out of these sub-offices to serve the entire Chicago AOR.
8. The Chicago AOR is authorized 281 ERO officer positions. 276 officer positions are currently filled, and 58 of these positions are funded by the Criminal Alien Program. There are currently 40 Supervisory Detention and Deportation Officers in the Chicago AOR; fifteen of these officers have Criminal Alien Program responsibilities. Without significant lead time, the Chicago AOR would be unable to issue a Form I-200 (Warrant for Arrest of Alien) in conjunction with all detainers. Currently, administrative

immigration warrants may only be issued out of the Chicago AOR by ICE supervisors.

*See 8 C.F.R. § 287.5(e)(2).*¹ This would require that, in addition to their regularly assigned duties, 40 supervisors, only 15 of whom have Criminal Alien Program responsibilities, would need to review the 31,302 active detainees issued out of the Chicago AOR and issue administrative warrants in those cases. They would also be responsible for reviewing all future cases before a detainer could be issued.

9. Officers assigned to the Criminal Alien Program are responsible for identifying and arresting criminal aliens at the 709 federal, state, and local prisons and jails throughout the Chicago AOR. That is more than 12 prisons and jails for each ERO officer funded by the Criminal Alien Program in the Chicago AOR. Currently, 687 of these prisons and jails honor immigration detainees. 12 prisons and jails do not honor immigration detainees, but do notify ICE when an alien is scheduled to be released from custody. 10 prisons and jails do not honor detainees or requests for notification.
10. As of October 15, 2016, there are 31,302 active detainees issued out of the Chicago AOR.
11. Nationwide, from July 1, 2015 through September 30, 2016, 44,904 Forms I-247D (Immigration Detainer – Request for Voluntary Action) and 7,204 Forms I-247N (Request for Voluntary Notification of Release of Suspected Priority Alien) have been issued to aliens who were convicted of an offense classified as a felony, or an aggravated felony, as defined under 8 U.S.C. § 1101(a)(43). Of these, 1,768 Forms I-247D and 69 Forms I-247N have been issued to aliens who were convicted of an offense classified as a felony, or an aggravated felony, as defined under 8 U.S.C. § 1101(a)(43) by ERO officers assigned to the Chicago AOR.

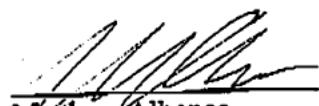
¹ Although the regulations also authorize the issuance of administrative warrants by immigration enforcement agents, 8 C.F.R. § 287.5(e)(2)(xlii), there are less than 15 immigration enforcement agents nationwide at this time.

12. At current staffing levels, the ERO Chicago Field Office is not able to take custody of all criminal aliens and serve them with arrest warrants immediately after they are released from state or local custody. A great many prisons and jails are several hundred miles away from the nearest Chicago AOR sub-office, making it impossible for ERO to take custody of all removable aliens before they are released from a state or local law enforcement agency without a detainer. For example, the Douglas County (WI) jail is over 400 miles from Milwaukee, Wisconsin – the nearest Chicago AOR sub-office. ERO is also not able to identify and apprehend all at-large criminal aliens after they are released and before they reoffend, and in fact, ERO officers are only able to arrest a fraction of those released from state and local custody due to the significantly greater operational burden of conducting at-large arrests.
13. The release of criminal aliens into local communities poses a significant threat to public safety and the safety of ERO officers required to conduct at-large arrests.
14. ICE recently reviewed 15,000 cases of aliens released in fiscal year 2014 across all areas of responsibility in order to assess recidivism rates. With regard to the Chicago AOR, ICE analyzed 1,008 cases and determined that the recidivism rate is 19%. After release from custody, 192 aliens were arrested for subsequent crimes resulting in a total of 332 new criminal offenses.
15. The cooperation ICE receives from other law enforcement agencies is critical to its ability to identify and arrest criminal aliens who meet DHS immigration enforcement and removal priorities.
16. Apprehending criminal aliens after they have been released into the community requires significantly greater resources. ICE estimates that it takes ERO four times as long to

conduct at-large arrests than to arrest aliens at jails and prisons through the Criminal Alien Program.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that to the best of my knowledge the foregoing is true and correct

Executed in Washington, D.C. this 26 day of October, 2016.


Matthew Albence
Assistant Director for Enforcement
Office of Enforcement and Removal
Operations
U.S. Immigration and Customs Enforcement